

Chapter 58

Leasing of Lands

Article 1

Use Limitation By Classification

11 AAC 58.010. Agricultural lands

All lands leased for agricultural purposes shall be managed and utilized in accordance with approved soil conservation practices as employed in the area wherein the land is located.

11 AAC 58.020. Commercial-industrial lands

All lands leased for commercial or industrial purposes shall be utilized only for these purposes, and in accordance with applicable building and zoning codes. In the absence of such codes the lessee shall, at least 30 calendar days prior to the commencement of construction or utilization, file with the director a plot plan, a general description of contemplated construction and a brief description of the business proposed. The director shall reject said plan within 30 calendar days of receipt thereof if he deems such utilization or construction contrary to the orderly development of the area or incompatible with existing development.

11 AAC 58.030. Grazing lands

All lands leased for grazing purposes shall be managed, stocked and utilized in accordance with approved range management practices as employed in the area wherein the land is located. However, a lessee shall be allowed to grow and harvest forage crops on a grazing lease for his own use. Crops so produced shall not be sold. Grazing leases may be declared null and void in whole or in part if the director determines that the land or a part thereof is not being used for the purpose issued.

11 AAC 58.040. Preference right grazing lease and forest service permittee lease

Repealed 8/16/89.

11 AAC 58.050. Material lands

Repealed.

11 AAC 58.060. Mineral lands

Repealed.

11 AAC 58.070. Public recreation lands

Repealed.

11 AAC 58.080. Private recreational lands

Lands classified as private recreational lands and leased for that purpose shall be used for noncommercial recreational purposes. No more than one residence shall be constructed on each lot so leased. However, the director may, if he deems utilization or construction contrary to the orderly development of the area or incompatible with existing development, after proper notice, cancel the existing lease.

11 AAC 58.090. Residential lands

Lands classified as residential lands and leased for that purpose shall be used for residential purposes only and in accordance with any applicable building and zoning codes. In the absence of such codes the lessee shall, at least 30 calendar days prior to commencement of construction or utilization, file with the director a plot plan and a general description of contemplated construction. The director shall reject said plan within 30 calendar days after receipt thereof if he deems such utilization or construction contrary to the orderly development of the area or incompatible with existing development.

11 AAC 58.100. Reserved use lands

Reserved use lands are available for leasing and may be utilized under an Inter-agency Land Management Transfer. Lands transferred to a qualified agency may be utilized by sublease or any other manner, provided such utilization shall be consistent with the function assigned said agency and the provisions of the Land Act and these regulations unless otherwise exempted.

11 AAC 58.110. Timber lands

Repealed.

11 AAC 58.120. School lands and university lands

Repealed 8/19/77.

11 AAC 58.130. Resource management lands

Repealed.

11 AAC 58.140. Open-to-entry lands

Repealed.

Article 2 **Permits**

11 AAC 58.200. Right-of-way or easement permit

Repealed.

11 AAC 58.210. Special land use permit

The director, without prior approval of the commissioner, may issue special land use permits on such terms and conditions as he deems to be in the best interests of Alaska.

11 AAC 58.220. Roads to subdivided state lands

Repealed.

Article 3 **General Provisions**

11 AAC 58.300. Lands available for leasing

All lands, including tide, submerged or shore lands, to which Alaska holds title or to which Alaska may become entitled, may be leased, as hereinafter provided, for surface use. Nothing herein contained shall prevent the leasing of land classified for two or more purposes, provided that surface leasing is allowed under one or more of such classifications.

11 AAC 58.310. Qualifications of applicants or bidders

Repealed.

11 AAC 58.320. Application

A person seeking to lease state land must apply at the regional office of the division nearest the land applied for on a form provided by the department. The fees prescribed by [11 AAC 05.230](#) must accompany each application.

11 AAC 58.330. Deposits

Repealed 8/19/77.

11 AAC 58.340. No rights before leasing

The filing of an application for a lease does not in any way vest any right in the applicant to a lease or to the use of the land applied for pending the issuance of a lease.

11 AAC 58.350. Classification

Repealed.

11 AAC 58.360. Review

Repealed 8/19/77.

11 AAC 58.370. Public and charitable use

Repealed 8/19/77.

11 AAC 58.380. Term of lease

Repealed 8/19/77.

11 AAC 58.390. Appraisal

Repealed 8/19/77.

11 AAC 58.400. Survey

Repealed.

11 AAC 58.410. Rental

(a) Annual rentals in amounts up to and including \$500 must be paid on an annual basis. Annual rentals in amounts above \$500 must be paid either annually or in quarterly installments, at the discretion of the lessee. All rentals must be paid in advance.

(b) Minimum lease rental will be determined in accordance with [AS 38.05.840](#), except that the department will charge no less than \$500 in minimum annual rent or compensation for a lease that authorizes private recreational or residential use, or authorizes grazing at a stocking rate of fewer than 50 animal units, and no less than \$1,000 in minimum annual rent or compensation for a lease that authorizes any other use. A full appraisal will not be done if, based on a preliminary appraisal by a department employee who is qualified to determine the value of land under [AS 38.05.840](#), the department finds that the minimum annual rent required by this subsection exceeds the amount likely to be determined by a full appraisal. This subsection applies only to issuance or renewal after December 31, 2002 of a lease under [AS 38.05.070](#) - 38.05.080 or [AS 38.05.095](#), a lease under [AS 38.05.810](#) except as provided in this subsection, or a millsite lease under [AS 38.05.255](#). This subsection does not apply to a shore fishery lease under [AS 38.05.082](#), an aquatic farmsite lease under [AS 38.05.083](#), or a public and charitable use lease under [AS 38.05.810](#) for less than the appraised value.

11 AAC 58.415. Survey and appraisal costs

Repealed.

11 AAC 58.420. Public notice

Repealed 8/19/77.

Repealed 8/19/77.

11 AAC 58.430. Location of lease auction

Repealed 8/19/77.

11 AAC 58.440. Leasing procedure

Repealed 8/19/77.

11 AAC 58.450. Receipt of bid

Repealed.

11 AAC 58.460. Commissioner's rejection

Repealed.

11 AAC 58.470. Appeal

Repealed.

11 AAC 58.480. Completion of bid requirements

Repealed.

11 AAC 58.490. Issuance of lease

Repealed.

11 AAC 58.500. Proper location by the lessee

Repealed.

11 AAC 58.510. Lease utilization

Leases must be utilized for purposes within the scope of lease and land classification. Utilization or development for other than the allowed uses is a violation of the lease. A development plan may be required on all leases. Failure to make substantial use of the land, consistent with the development plan, within five years, will, in the director's discretion, constitute grounds for cancellation.

11 AAC 58.520. Adjustment of rental

Repealed 8/19/77.

11 AAC 58.530. Subleasing

Repealed 8/19/77.

11 AAC 58.540. Assignments

Repealed 8/19/77.

11 AAC 58.550. Modification

A lease may not be modified orally or in any manner other than by an agreement in writing signed by all parties thereto or their respective successors in interest.

11 AAC 58.560. Cancellation; forfeiture

(a) Leases in good standing may be cancelled in whole or in part, at any time, upon mutual written agreement by the lessee and the director.

(b) A lease is subject to cancellation in whole or in part if improperly issued through misrepresentation or error with respect to material facts.

(c) A lease may be cancelled if used for any unlawful purpose.

(d) The director will, in the director's discretion, cancel a lease, if the lessee defaults and the director determines the action is necessary to protect and enforce the state's contractual or other property rights. No improvements may be removed during any time the lessee is in default.

11 AAC 58.570. Notice of default

Notice of default will be issued in writing as provided in [11 AAC 58.580](#). A copy of the notice will be sent to a holder of a security assignment approved under [AS 38.05.095](#) and [AS 38.05.920](#). For a lease issued under [AS 38.05.070](#) - 38.05.105 on or after June 23, 1977, the lessee or the holder of a security assignment may remedy the default in accordance with [AS 38.05.103](#), and within the time period established under that section, even if the lease provides for a shorter period.

11 AAC 58.580. Notice or demand

Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in a U.S. general or branch post office enclosed in a registered or certified mail prepaid wrapper or envelope addressed as hereinabove provided.

11 AAC 58.590. Rights of security assignee

If a lease is forfeited or cancelled for cause, the holder of a security assignment approved under [AS 38.05.095](#) and [AS 38.05.920](#) may acquire the lease for its unexpired term, subject to the lease's existing terms and conditions.

11 AAC 58.600. Entry and re-entry

In the event that the lease should be terminated as hereinbefore provided, or by summary proceedings or otherwise, or in the event that the demised lands, or any part thereof, should be abandoned by the lessee during the said term, the lessor or its agents, servants, or representative, may immediately or any time thereafter re-enter and resume possession of said

of its agents, servants, or representative, may immediately or any time thereafter, re-enter and resume possession of said lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No re-entry by the lessor shall be deemed an acceptance of a surrender of the lease.

11 AAC 58.610. Re-lease

In the event that a lease should be terminated as herein provided, or by summary proceedings, or otherwise, the division may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

11 AAC 58.620. Forfeiture of rental

In the event that the lease should be terminated because of any breach by the lessee, as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the lessor as partial or total liquidated damages for said breach.

11 AAC 58.630. Written waiver

The receipt of rent by the lessor with knowledge of any breach of the lease by the lessee or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the lessor to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the lessor unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the lessor to enforce the same in the event of any subsequent breach or default. The receipt, by the lessor, of any rent or any other sum of money after the termination, in any manner, of the term therein demised, or after the giving by the lessor of any notice thereunder to effect such termination, shall not reinstate, continue, or extend the resultant term therein demised, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given thereunder by the lessor to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the lessor.

11 AAC 58.640. Expiration of lease

Unless the lease is renewed or sooner terminated as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the lessor all of the leased land on the last day of the term of the lease.

11 AAC 58.650. Renewal of lease

Repealed.

11 AAC 58.660. Preference rights

Repealed 8/19/77.

11 AAC 58.670. Removal or reversion of improvements upon termination of lease

Repealed 8/19/77.

11 AAC 58.680. Rental for improvements or chattels not removed

Any improvements or chattels belonging to the lessee or placed on the lease during the lessee's tenure with or without his permission and remaining upon the premises after the termination date of the lease shall entitle the lessor to charge a reasonable rent therefor.

11 AAC 58.690. Sanitation

The lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The premises of the lease shall be kept in a neat, clean and sanitary condition and every effort shall be made to prevent the pollution of waters.

11 AAC 58.700. Building and zoning codes

Leased lands that lie within the jurisdiction of an authorized building or zoning authority shall be utilized in accordance with the rules and regulations of said authority. Failure to do so shall constitute a violation of the lease.

11 AAC 58.710. Fire and forest protection

The lessee will take all reasonable precaution to prevent, and take all necessary action to suppress destructive or uncontrolled grass, brush and forest fires on leased lands and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the leased premises are located.

11 AAC 58.720. Inspection

The lessee shall allow authorized representatives of the division to enter the leased land for inspection at any reasonable time.

11 AAC 58.730. Use of materials

All coal, oil, gas and other minerals, all deposits of stone or gravel valuable for extraction or utilization, and all material subject to 11 AAC 71 are excepted from the operation of a lease of the land estate. Specifically, the lessee of the land estate may not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material without specific authorization in the lease or a separate written authorization. However, material required for the development of the leasehold may be used on the leasehold, as authorized by the approved lease development plan.

11 AAC 58.740. Rights-of-way

The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of Alaska to do so. The lessee whose lands such easements or rights-of-way shall cross shall be entitled to damages for all improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only

damages to improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only, and loss shall be determined by fair market value.

11 AAC 58.750. Restrictions and reservations

Repealed 8/19/77.

11 AAC 58.760. Damages

Repealed 8/19/77.

11 AAC 58.770. Waste and injury to land

Repealed.

11 AAC 58.780. Warranty

Repealed.

11 AAC 58.790. Lease rental credit

Repealed.

11 AAC 58.800. Hunting and fishing

The lawful pursuit or the hunting of game, the taking of fish and trapping, if sanctioned by a proper permit from the Alaska Department of Fish and Game, or the picking of berries shall not be denied on lands leased for agricultural or grazing purposes; provided, however, the director, may, upon request, grant permission, in writing, that all or a portion of the leased premises may be posted to prevent hunting and/or fishing and/or berry picking when it appears necessary in order to properly protect the lessee and his property.

11 AAC 58.810. Approval of other authorities

Repealed.

11 AAC 58.820. Conditional leases

Repealed.

11 AAC 58.825. Youth encampment exemption

(a) An exemption from lease payments will be granted by the director for an eligible lessee, upon written request to the director by the lessee.

(b) A complete exemption from lease payments may be granted only if the lessee signs a sworn statement that the land is reasonably necessary for and is used for a youth encampment as defined in 11 AAC 58.910(31). In the event the leasehold is used for another purpose, the lessee shall pay the amount that would have been due had the exemption not been granted.

(c) In determining a lessee's qualification for exemption, the director will, in his discretion, liberally interpret the applicable statutes and regulations.

11 AAC 58.830. Lease of land to another state agency

(a) When the commissioner determines that it is in the best interests of the state, a lease under AS 38.05.810 may be granted to the Department of Transportation and Public Facilities, the Department of Administration, or another state agency authorized to acquire facilities or space for the use of the state. Under this section, that agency may sublease the land to a developer for the construction of a facility if a substantial portion of the space in the facility will be leased back to the state for official use.

(b) The terms and conditions of the sublease may be determined by the sublessor state agency with the approval of the commissioner of natural resources.

(c) The sublease must be offered in accordance with the competitive bidding or negotiation procedures governing the sublessor agency's acquisition of facilities or space.

Article 4 **Short Title and Definitions**

11 AAC 58.900. Short title

This chapter pertains to the leasing of lands of the State of Alaska and to the jurisdiction of the Division of Lands, Department of Natural Resources and related matters. The intent of this chapter is to insure the equitable leasing of Alaska land in a manner that will encourage development for its highest and best use. This chapter may be referred to as the "Surface Leasing Regulations."

11 AAC 58.910. Definitions

In this chapter

(1) "agricultural lands" means those lands which, because of location, adjacent development, physical and climatic features, are or may be made suitable for the production of agricultural crops;

(2) "Act" means the Alaska Land Act, AS 38.05;

(3) "Alaska" means State of Alaska;

(4) "Alaska lands" means all lands including shore, tide and submerged lands, or resources belonging to or hereafter in any manner acquired by Alaska;

(5) "classification" means the designation of lands according to their apparent best use;

(6) "commercial lands" means those lands which, because of location, physical features or adjacent developments, may best be utilized for nonindustrial business purposes;

(7) "commissioner" means the Commissioner of the Department of Natural Resources;

(8) "department" means the Department of Natural Resources;

- (8) "department" means the Department of Natural Resources;
- (9) "director" means the Director of the Division of Lands, Department of Natural Resources;
- (10) "division" means Division of Lands within the Department of Natural Resources. Administrative powers and other delegated duties as prescribed by law or regulations are vested in the director;
- (11) "fair market value" means the highest price, estimated in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used;
- (12) "grazing lands" means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing of domestic livestock;
- (13) repealed 2/8/2001;
- (14) "land" means all lands under the jurisdiction of the division;
- (15) "lease" means a surface lease issued or held pursuant to the Act and these regulations;
- (16) repealed 2/8/2001;
- (17) repealed 2/8/2001;
- (18) repealed 2/8/2001;
- (19) "private recreation lands" means those lands which because of their location, physical features or adjacent development are chiefly valuable as outdoor recreational areas and may best be utilized by private noncommercial development;
- (20) "regulations" means the leasing regulations contained in this chapter, as well as all other pertinent regulations promulgated by the department;
- (21) "reserved use lands" means those lands which have been transferred, assigned or designated for present or future use by a governmental or quasi-governmental agency or for townsite development;
- (22) "residential lands" means those lands which because of location, physical features or adjacent development may best be utilized for single or multiple unit dwellings;
- (23) "sale" means the transferring of title to real property from the state to another for a consideration;
- (24) "state" means State of Alaska;
- (25) repealed 2/8/2001;
- (26) repealed 2/8/2001;
- (27) repealed 2/8/2001;
- (28) repealed 2/8/2001;
- (29) repealed 2/8/2001;
- (30) repealed 2/8/2001;
- (31) "youth encampment" means a program, offered by a nonprofit organization, that provides organized, supervised experiences and opportunities in outdoor recreation and living, and personal and social development for children and young adults, that includes daytime facilities or area for overnight camping, and that is used during any three months of a year;
- (32) "rental" means any form of compensation that the lease requires the lessee to pay, as set out in AS 38.05.073(m).